



January 13, 2006

SENATE BILL No. 39

DIGEST OF SB 39 (Updated January 11, 2006 3:59 pm - DI 71)

Citations Affected: IC 20-26; IC 31-34; IC 31-37.

Synopsis: Legal settlement in a school corporation. Provides that if a court order grants a parent custody of a student, the parent granted physical custody (or the student if the student is at least 18 years of age) may elect not later than 14 days before the first student day of the school year whether the student will have legal settlement in the school corporation in which the student's mother resides or in which the student's father resides. Provides that: (1) the election may be made only on a yearly basis; and (2) the student or parent who makes the election may not be charged transfer tuition. (The introduced version of this bill was prepared by the child custody and support advisory committee.)

Effective: July 1, 2006.

Ford

January 9, 2006, read first time and referred to Committee on Education and Career Development.
January 12, 2006, reported favorably — Do Pass.

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SB 39—LS 6029/DI 110+



January 13, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 39

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 20-26-11-1, AS ADDED BY P.L.1-2005,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2006]: Sec. 1. As used in this chapter with respect to legal
4 settlement, transfers, and the payment of tuition, the words "residence",
5 "resides", or other comparable language means a permanent and
6 principal habitation that an individual uses for a home for a fixed or
7 indefinite period, at which the individual remains when not called
8 elsewhere for work, studies, recreation, or other temporary or special
9 purpose. These terms are not synonymous with legal domicile. **Except**
10 **as provided in section 2(3) of this chapter**, where a court order grants
11 an individual custody of a student, the residence of the student is where
12 that individual resides.

13 SECTION 2. IC 20-26-11-2, AS ADDED BY P.L.1-2005,
14 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2006]: Sec. 2. The legal settlement of a student is governed by
16 the following provisions:

17 (1) If the student:

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- 1 (A) is less than eighteen (18) years of age; or
 2 (B) is at least eighteen (18) years of age but is not
 3 emancipated;
 4 the legal settlement of the student is in the attendance area of the
 5 school corporation where the student's parents reside.
 6 (2) If the student's mother and father, in a situation to which
 7 subdivision (1) otherwise applies, are divorced or separated, the
 8 legal settlement of the student is the school corporation whose
 9 attendance area contains the residence of the parent with whom
 10 the student is living, in the following situations:
 11 (A) If a court order has not been made establishing the custody
 12 of the student.
 13 (B) **Except as provided in subdivision (3),** if both parents
 14 have agreed on the parent or person with whom the student
 15 will live.
 16 (C) If the parent granted custody of the student has abandoned
 17 the student.
 18 In the event of a dispute between the parents of the student, or
 19 between the parents and a student at least eighteen (18) years of
 20 age, the legal settlement of the student shall be determined as
 21 otherwise provided in this section.
 22 **(3) If, in a situation in which subdivision (1) otherwise applies,**
 23 **the student's mother and father are divorced or separated,**
 24 **and if a court order grants the student's:**
 25 (A) mother;
 26 (B) father; or
 27 (C) both mother and father;
 28 custody of the student, the legal settlement of the student is
 29 the school corporation whose attendance area contains the
 30 residence of the mother or father, as elected under section
 31 2.5(a) of this chapter. If the custodial parent (or the student,
 32 if at least eighteen (18) years of age) does not make an election
 33 under section 2.5(a) of this chapter, the legal settlement of the
 34 student is the school corporation whose attendance area
 35 contains the residence of the parent granted physical custody
 36 by the court order.
 37 ~~(3)~~ (4) If the legal settlement of a student, in a situation to which
 38 subdivision (1) otherwise applies, cannot reasonably be
 39 determined and the student is being supported by, cared for by,
 40 and living with some other individual, the legal settlement of the
 41 student is in the attendance area of that individual's residence,
 42 except where the parents of the student are able to support the

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1 student but have placed the student in the home of another
 2 individual, or allowed the student to live with another individual,
 3 primarily for the purpose of attending school in the attendance
 4 area where the other individual resides. The school may, if the
 5 facts are in dispute, condition acceptance of the student's legal
 6 settlement on the appointment of that individual as legal guardian
 7 or custodian of the student, and the date of legal settlement will
 8 be fixed to coincide with the commencement of the proceedings
 9 for the appointment of a guardian or custodian. However, if a
 10 student does not reside with the student's parents because the
 11 student's parents are unable to support the child and the child is
 12 not residing with an individual other than a parent primarily to
 13 attend a particular school, the student's legal settlement is where
 14 the student resides, and the establishment of a legal guardianship
 15 may not be required by the school. In addition, a legal
 16 guardianship or custodianship established solely to attend school
 17 in a particular school corporation does not affect the
 18 determination of the legal settlement of the student under this
 19 chapter.

20 ~~(4)~~ (5) If a student, to whom subdivision (1) would otherwise
 21 apply, is married and living with a spouse, the legal settlement of
 22 that student is in the attendance area of the school corporation
 23 where the student and the student's spouse reside.

24 ~~(5)~~ (6) If the student's parents:

25 (A) are living outside the United States due to educational
 26 pursuits or a job assignment;

27 (B) do not maintain a permanent home in any school
 28 corporation in the United States; and

29 (C) have placed the student in the home of another individual;
 30 the legal settlement of the student is in the attendance area where
 31 the other individual resides.

32 ~~(6)~~ (7) If the student is emancipated, the legal settlement is the
 33 attendance area of the school corporation of the student's
 34 residence.

35 ~~(7)~~ (8) If a student's legal settlement is changed after the student
 36 has begun attending school in a school corporation in any school
 37 year, the effective date of change may:

38 (A) at the election of:

39 (i) the parent;

40 (ii) the student, if the student is at least eighteen (18) years
 41 of age; or

42 (iii) a juvenile court conducting a proceeding under

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IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26, or
 IC 31-37-20-6 (or IC 31-6-4-18.5 before its repeal);
 be extended until the end of that semester; or
 (B) at the discretion of the school, until the end of that school
 year.

However, that election, where a student has completed grade 11
 in any school year, shall extend to the end of the following school
 year in grade 12.

~~(8)~~ **(9)** If a juvenile court has:

(A) made findings of fact concerning the legal settlement of a
 student under IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26,
 or IC 31-37-20-6 (or IC 31-6-4-18.5 before its repeal); and

(B) jurisdiction over the student under IC 31-34 or IC 31-37;
 the legal settlement of the student is the attendance area specified
 as the legal settlement in the latest findings of fact issued by the
 juvenile court.

SECTION 3. IC 20-26-11-2.5 IS ADDED TO THE INDIANA
 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2006]: **Sec. 2.5. (a) In the case of a student
 described in section 2(3) of this chapter, the:**

(1) parent granted physical custody by a court; or

**(2) student, if the student is at least eighteen (18) years of age;
 may, not later than fourteen (14) days before the first student day
 of the school year, elect for the student to have legal settlement in
 the school corporation whose attendance area contains the
 residence of the student's mother or the school corporation whose
 attendance area contains the resident of the student's father.**

**(b) An election under subsection (a) may be made only on a
 yearly basis.**

**(c) The parent or student who makes an election under
 subsection (a) is not required to pay transfer tuition.**

SECTION 4. IC 20-26-11-3, AS ADDED BY P.L.1-2005,
 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2006]: Sec. 3. The state superintendent shall prepare the form
 of agreement to be used under section 2(2) of this chapter and a form
 to be executed by any individual with whom the student is living under
 section 2(2), 2(3), **2(4)**, or ~~2(5)~~ **2(6)** of this chapter. The execution of
 the form by the individual and its continuance in force is a condition to
 the application of section 2(2), 2(3), **2(4)**, or ~~2(5)~~ **2(6)** of this chapter.
 The form must contain an agreement of the individual that the
 individual shall, with respect to dealing with the school corporation and
 for all other purposes under this article, assume all the duties and be

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subject to all the liabilities of a parent of the student in the same manner as if the individual were the student's parent. On the execution of that form and for as long as it remains in force, the individual has these duties and liabilities.

SECTION 5. IC 31-34-20-5, AS AMENDED BY P.L.1-2005, SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) This section applies if a juvenile court:

- (1) places a child;
- (2) changes the placement of a child; or
- (3) reviews the implementation of a decree under IC 31-34-21 of a child placed;

in a state licensed private or public health care facility, child care facility, or foster family home.

(b) The juvenile court shall do the following:

- (1) Make findings of fact concerning the legal settlement of the child.
- (2) Apply IC 20-26-11-2(1) through ~~IC 20-26-11-2(7)~~ **IC 20-26-11-2(8)** to determine where the child has legal settlement.

(3) Include the findings of fact required by this section in:

- (A) the dispositional order;
- (B) the modification order; or
- (C) the other decree;

making or changing the placement of the child.

(c) The juvenile court shall comply with the reporting requirements under IC 20-26-11-9 concerning the legal settlement of the child.

SECTION 6. IC 31-37-19-26, AS AMENDED BY P.L.1-2005, SECTION 211, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 26. (a) This section applies if a juvenile court:

- (1) places a child;
- (2) changes the placement of a child; or
- (3) reviews the implementation of a decree under IC 31-37-20 (or IC 31-6-4-19 before its repeal) of a child placed;

in a state licensed private or public health care facility, child care facility, or foster family home.

(b) The juvenile court shall do the following:

- (1) Make findings of fact concerning the legal settlement of the child.
- (2) Apply IC 20-26-11-2(1) through ~~IC 20-26-11-2(7)~~ **IC 20-26-11-2(8)** to determine where the child has legal

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- 1 settlement.
- 2 (3) Include the findings of fact required by this section in the:
- 3 (A) dispositional order;
- 4 (B) modification order; or
- 5 (C) other decree;
- 6 making or changing the placement of the child.
- 7 (c) The juvenile court shall comply with the reporting requirements
- 8 under IC 20-26-11-9 concerning the legal settlement of the child.

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COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 39, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 39 as introduced.)

LUBBERS, Chairperson

Committee Vote: Yeas 7, Nays 0.

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